

City Council Chambers 3300 Capitol Avenue Fremont, California

City Council

Bob Wasserman, Mayor
Suzanne Lee Chan, Vice Mayor
Anu Natarajan
Bill Harrison
Dominic Dutra

City Staff

Fred Diaz, City Manager
Harvey E. Levine, City Attorney
Mark Danaj, Assistant City Manager

Dawn G. Abrahamson, City Clerk
Robert Beyer, Interim Community Dev. Director
Harriet Commons, Finance Director
Marilyn Crane, Information Technology Svcs. Dir.
Annabell Holland, Community Services Director
Norm Hughes, City Engineer
Bruce Martin, Fire Chief
Jim Pierson, Public Works Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Brian Stott, Human Resources Director
Lori Taylor, Economic Development Director
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

- 1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
- 2. Consent Calendar
- 3. Ceremonial Items
- 4. Public Communications
- 5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
- 6. Report from City Attorney
- 7. Other Business
- 8. Council Communications
- 9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

Agenda and Report • Fremont City Council Meeting • April 5, 2011



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak. Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

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Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk

City of Fremont

3300 Capitol Avenue, Bldg. A

Fremont, California 94538

Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

AGENDA FREMONT CITY COUNCIL REGULAR MEETING APRIL 5, 2011 COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A 7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 Motion to Waive Further Reading of Proposed Ordinances (This permits reading the title only in lieu of reciting the entire text.)
- 2.2 Approval of Minutes None.
- 2.3 Second Reading and Adoption of an Ordinance of the City of Fremont, Adding Fremont Municipal Code Title VII, Chapter 14 Regarding Universal Design Standards
 - RECOMMENDATION: Adopt ordinance.
- 2.4 APPROVAL TO INCREASE PURCHASE ORDER AND AMEND THE SERVICE AGREEMENT WITH WESCO GRAPHICS INC., TO A NOT TO EXCEED AMOUNT OF \$150,000 PER YEAR

Request for Council Approval to Increase the Purchase Order and Amend the Service Agreement with Wesco Graphics Inc., for Print and Distribution of the Recreation Guides and Bulletins, to a "Not to Exceed" Amount of \$150,000 per Year

Contact Person:

Name: Kim Beranek Annabell Holland

Title: Recreation Superintendent II Director

Dept.: Community Services Community Services
Phone: 510-494-4330 510-494-4329

E-Mail: kberanek@fremont.gov aholland@fremont.gov

RECOMMENDATION: Approve Amendment #1 to the Wesco Graphics Inc., Service Agreement and increase the Purchase Order amount with Wesco Graphics Inc., to \$150,000 per year.

2.5 RESOLUTION AMENDING THE CITY OF FREMONT MASTER FEE SCHEDULE TO UPDATE CERTAIN RECREATION SERVICES DIVISION FACILITY USE AND SERVICE FEES

Amendment to the City of Fremont Master Fee Resolution to Update Certain Recreation Services Division Facility Use and Service Fees

Contact Person:

Name: Kelly King Annabell Holland

Title: Recreation Superintendent II Director

Dept.: Community Services Community Services

Phone: 510-494-4327 510-494-4329

E-Mail: kking@fremont.gov aholland@fremont.gov

RECOMMENDATION: Adopt a resolution amending the Master Fee Schedule to update existing fees for Central Park picnic area rentals and youth sports field rentals and incorporate the Teen Center patio area into the current Master Fee Resolution. Revised fees would become effective July 1, 2011, while the Teen Center patio fees would become effective immediately.

2.6 BLACOW FRONTAGE MEDIAN REPLACEMENT PROJECT, 8650 (PWC)
Approval of Plans and Specifications and Award of Contract to the Lowest
Responsible Bidder for the Blacow Frontage Median Replacement Project, City
Project No. 8650 (PWC)

Contact Persons:

Name:Craig CovertNorm HughesTitle:Associate Civil EngineerCity EngineerDept.:Public WorksPublic WorksPhone:510-494-4785510-474-4748

E-Mail: ccovert@fremont.gov nhughes@fremont.gov

RECOMMENDATIONS:

- 1. Approve the plans and specifications for the Blacow Frontage Median Replacement Project, City Project No. 8650 (PWC).
- 2. Accept the bid and award the construction contract for the Blacow Frontage Median Replacement Project, City Project No. 8650 (PWC), to the lowest

responsive and responsible bidder, Joseph J. Albanese, Inc., in the amount of \$605,845.00 and authorize the City Manager to execute the contract.

3. CEREMONIAL ITEMS

- 3.1 Resolution: Supporting the Tri-Cities Ducks for Bucks Benefit Race
- 3.2 Proclamation: Fair Housing Month

4. PUBLIC COMMUNICATIONS

4.1 Oral and Written Communications

REDEVELOPMENT AGENCY - None.

PUBLIC FINANCING AUTHORITY - None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS – None.

6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS

7.1 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET UPDATE
Presentation of Updated Project Prioritization for the FY 2011/12 – 2015/16 CIP, and
a Status Update on the Current Capital Project List

Contact Person:

Name: Sean O'Shea Norm Hughes
Title: Management Analyst II City Engineer
Dept.: Public Works
Phone: 510-494-4777 510-494-4748

E-Mail: soshea@fremont.gov nhughes@fremont.gov

RECOMMENDATION: Provide comments to staff on the updated project prioritization for the FY 2011/12 - 2015/16 CIP.

7.2 DISSOLUTION OF ASSOCIATED COMMUNITY ACTION PROGRAMS (ACAP)
Update on the Dissolution of the Associated Community Action Programs (ACAP)
Joint Powers Agency and Authorization for City Manager to Execute a
Reimbursement and Joint Cooperation Agreement Related to the Dissolution

Contact Person:

Name: Dan Schoenholz Fred Diaz
Title: Policy and Special Projects Manager City Manager

Dept.: Community Development

Phone: 510-494-4438 510-284-4000 E-Mail: dschoenholz@fremont.gov cof@fremont.gov

RECOMMENDATION: Authorize the City Manager or his designee to execute the Reimbursement and Joint Cooperation/Representation Agreement.

8. COUNCIL COMMUNICATIONS

- 8.1 Council Referrals
 - 8.1.1 MAYOR WASSERMAN REFERRAL: Appointment of Sandeep Chandana to the Library Advisory Commission
- 8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



*2.3 Second Reading and Adoption of an Ordinance of the City of Fremont, Adding Fremont Municipal Code Title VII, Chapter 14 Regarding Universal Design Standards

ENCLOSURE: Draft Ordinance

RECOMMENDATION: Adopt ordinance.

*2.4 APPROVAL TO INCREASE PURCHASE ORDER AND AMEND THE SERVICE AGREEMENT WITH WESCO GRAPHICS INC., TO A NOT TO EXCEED AMOUNT OF \$150,000 PER YEAR

Request for Council Approval to Increase the Purchase Order and Amend the Service Agreement with Wesco Graphics Inc., for Print and Distribution of the Recreation Guides and Bulletins, to a "Not to Exceed" Amount of \$150,000 per Year

Contact Person:

Name: Kim Beranek Annabell Holland

Title: Recreation Superintendent II Director

Dept.: Community Services Community Services

Phone: 510-494-4330 510-494-4329

E-Mail: kberanek@fremont.gov aholland@fremont.gov

Executive Summary: Wesco Graphics is the printer and mailhouse for the City Recreation program guides, school bulletins and other collateral marketing pieces. Staff is requesting the City Council's

authorization to increase the service agreement and purchase order from \$99,000 to a "not-to-exceed" amount of \$150,000 per year. Funding is covered by the revenue brought in from the programs and

classes promoted in the printed materials produced.

BACKGROUND: One of the biggest contributors to the success of City recreation programs and classes is the marketing of these programs to the residents and the surrounding community. The most successful City marketing tools have proven to be the seasonal recreation program guides and the 4-page recreation bulletins, which target both households and local schools. Due to the increased marketing efforts and outreach into the surrounding communities to combat the impact of the recession, the services from Wesco Graphics Inc., for print and distribution of these collateral pieces, are projected to exceed \$99,000.

DISCUSSION/ANALYSIS: The City recreation programs have continued to maintain their popularity and success in this difficult economy. Throughout California, many municipal recreation programs are struggling, but the Recreation Division's cost center model established in 1998, which charges fees for services, has continued to sustain and even grow by expanding recreation programs and classes each session. As of January 31, 2011, the classes, programs and rentals promoted in the guides and bulletins had increased by 7% (\$100,000) over the prior year for the same time period.

Both private businesses and other agencies continue to compete with City recreation programs to capture our residents' recreation dollars. The guides and bulletins continue to be the best marketing tool staff has to remain competitive in the marketplace. This year, staff has increased the number of guides and bulletins from 400,000 units to 600,000 units to stay competitive during this economic recession. In order to increase school year registrations, the Recreation Division began a Fremont Unified School District (FUSD) 4-page, full color bulletin in the fall of 2009. The division also began mailing custom bulletins directed to tots, youth, teens and adults, 3-4 times per year, which assists in supplementing the larger recreation guides. These extra marketing efforts, have increased total production costs. However, the increased marketing has proven to be a positive investment with a year over year increase of both program registrants and revenue. This request to amend the agreement and increase the purchase order

amount to a "not to exceed" amount of \$150,000 per year will allow for a continuation of the increased marketing efforts.

Purchasing Process: A formal bid process was completed and a contract was awarded to Wesco Graphics Inc., in July 2009, with an option to extend for an additional 3 years. Service Agreement (#09-0321) is in place with Wesco Graphics Inc., for the current year and could be extended to June 30, 2013.

FISCAL IMPACT: The additional costs are covered by the revenue collected for Recreation division programs and classes. No additional appropriation is needed.

ENVIRONMENTAL REVIEW: None

ENCLOSURE: None

RECOMMENDATION: Approve Amendment #1 to the Wesco Graphics Inc., Service Agreement and increase the Purchase Order amount with Wesco Graphics Inc., to \$150,000 per year.

*2.5 RESOLUTION AMENDING THE CITY OF FREMONT MASTER FEE SCHEDULE TO UPDATE CERTAIN RECREATION SERVICES DIVISION FACILITY USE AND SERVICE FEES

Amendment to the City of Fremont Master Fee Resolution to Update Certain Recreation Services Division Facility Use and Service Fees

Contact Person:

Name: Kelly King Annabell Holland

Title: Recreation Superintendent II Director

Dept.: Community Services Community Services

Phone: 510-494-4327 510-494-4329

E-Mail: kking@fremont.gov aholland@fremont.gov

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Executive Summary: This item is before the City Council to consider amending the City of Fremont Master Fee Resolution to update existing rental fees at both Central Park picnic areas and youth sports fields, and to incorporate the new Teen Center patio area into the Master Fee Schedule.

BACKGROUND: On June 9, 2009, the City Council adopted Resolution 2009-32 updating Master Fee Resolution 8672, which established user fees for Recreation Services Division services and activities. Staff recommends that the City Council support the Recreation Commission's recommendation that the City Council amend the Master Fee Resolution to update existing fees for Central Park picnic area rentals and youth sports field rentals, and incorporate the new Teen Center patio area into the Master Fee Schedule.

DISCUSSION/ANALYSIS: Pursuant to Government Code 50402, the City is authorized to establish fees for use of park facilities and services so long as the fees do not exceed the cost of providing such services. The Recreation Services Division strives for cost recovery in its programs balanced with offering reasonable rates that are in line with other local institutions.

In December 1999, following the first complete review of existing use fees for Recreation Services Division facility use and services in 13 years, staff recognized the need to review fees more frequently and recommend incremental fee adjustments in order to maintain market viability. Recreation Services Division staff has since reviewed fees each year beginning in 2001. As a result of each such review, staff has recommended updating fees where market and other economic conditions support such actions, as well as recommending new fee categories as new facilities come on line.

In 2011, staff completed a thorough review of current facility use and recreation service fees and determined the majority of the fees are in alignment with market conditions, with the exception of certain Central Park picnic areas and youth sports fields. A discussion of the recommended fee revisions follows.

Central Park Picnic Area Fees: Picnic area rental fees in Central Park were last revised in 2007. Demand for these picnic sites remains strong, with the highest demand on Saturdays throughout the year. In order to best serve all customers on the busiest days of the year, staff is recommending that the Central Park picnic areas no longer offer a non-profit rate on Saturdays. This policy would allow for

resident families to have a better opportunity at securing a prime location on these days, because non-profit groups usually book their events well in advance of private rentals. The new fee structure would also provide the Recreation Services Division with an opportunity to maximize its revenues while being consistent with the fees charged by the City's community centers for Saturday rentals which also do not include a non-profit rate. The non-profit rate structure would remain the same Sunday through Friday throughout the year.

Youth Sports Field Rental Fees: Community youth sports organizations have been assessed perplayer fees for regularly scheduled use of the City's athletic fields since 1985. Fees were established in order to recover the costs associated with managing the scheduling system that allots field space from season to season while keeping the costs to youth sports organizations affordable. Participation in the various organized community youth sports programs has grown as the City's population has grown, both in numbers and diversity. Facility demand has grown accordingly, scheduling has become more complex, and costs have risen over the course of 20+ years while per-player fees had remained unchanged until 2006.

In 2006, staff conducted three community meetings with youth sports organizations in order to address the need to revise per-player fees and apply an incremental approach to updating fees consistent with the Recreation Services Division's fee practices. Analysis has shown that these per-player fees do not cover the costs of the youth sports groups using these fields. As a follow up to these meetings, staff and representatives from FC Fremont Soccer, Fremont Football, Fremont Girls Softball Association, Fremont Baseball Incorporated, Fremont Babe Ruth Baseball, Warm Springs Little League and Fremont National Youth Baseball arrived at final consensus on the 2006 recommended revised per-player fees, and the need to incrementally adjust these fees every other year. Following the implementation of this year's proposed \$2.00 increase in the per-player fee, the costs of the youth sports groups using these fields will still remain far greater than its offsetting revenue. However, staff is recommending an incremental increase, so as to not create a financial hardship on the aforementioned youth sports groups. The proposed fees, listed below, are recommended to be effective July 1, 2011.

Youth League and Pre/Post Seasonal Playoff

	Current Fee	Proposed fee
Softball/Baseball (City fields)	\$6.00/player/season	\$8.00/player/season
Football (City fields)	7.00/player/season	9.00/player/season
Soccer (City Fields)	6.00/player/season	8.00/player/season

Teen Center Patio Area Fees: The Teen Center Patio Park Project was completed in March 2011 and included the design and construction of a new outdoor patio adjacent to the Teen Center building. The outdoor amenities, which include benches, exterior lighting, landscaping and stamped concrete, add to the ambiance of the patio to make it an attractive outdoor rental space. The patio provides an opportunity to enhance the rental of the Teen Center's main hall by offering indoor and outdoor rental combinations (weddings inside/receptions outside) and under certain circumstances, the patio could accommodate small stand-alone events, as well. Staff fee recommendations are based on the existing fee structure and comparable amenities of the Warm Springs Community Center patio facility. The proposed fees, listed below, are recommended to be effective immediately.

Teen Center Patio

Group Hourly Rate

Non-Profit \$35 Resident \$70 Non-Resident \$85 Commercial \$100

Research Process and Market Analysis: As previously noted, the City is required to set user fees and fee for service that do not exceed the reasonable cost of providing the service. The Recreation enterprise model attempts to recover a portion of the actual cost of providing recreation services. The City's General Fund provides limited non-fee based support for administration and operation of recreation program offerings. Additionally, the City provides non-user-fee-based funding for acquisition, development, and maintenance of facilities. Thus, the fees recommended for updating are collected to recover in part the costs of administering the recreational facilities reservation and meeting program.

As in all previous fee reviews, staff research and methodology has been directed at meeting three critical interests while ensuring fees do not exceed the reasonable cost to provide the services. The *first* interest is to ensure that fees are consistent with the external local market for similar services and consistent with *internal* pricing for like facilities. A *second* interest is to ensure that customer demand for service is met without creating additional impact on City resources. The *third* interest is ensuring that pricing is consistent with the City's enterprise approach to doing business. These three interests were addressed as follows in the 2011 fee review:

- 1) Market consistency: In achieving internal and external market consistency, staff ensures that updated and new fees maintain a comparable position in the *external* market for similar facilities and services and are *internally* consistent with fees for similar City facilities/services. In order to determine *external* market consistency, Picnic Area rentals, youth sports field rental fees, and indoor/outdoor patio rental fee information was gathered from various regional school districts, cities, and other public and private agencies.
- 2) Impact on City resources: The proposed revised fees create no new impacts on existing City resources as they do not change the current level of service. New fee categories will create little or no new impacts since the Teen Center patio will be reserved through existing facility reservation systems and processes. Both updated and new fees ensure that the customer will continue to bear the costs of providing service.
- 3) **Business model/cost recovery**: A third interest was ensuring that recommended fees were consistent with the City's enterprise-based approach to doing business by recovering, but not exceeding, the actual costs for providing service.

Recommended fees for the Central Park picnic areas are aimed at meeting this interest by adjusting them to be consistent with the Community Center non-profit rate structure and ensuring that the City is maximizing its revenue during its busiest days of the year.

Incorporating the Teen Center patio area into the existing facility reservation system ensures that all costs associated with meeting customer demand for providing the service are borne by the customer.

Recommended fee increases for youth sports leagues facility use is aimed at recovering increasing costs for service through the incremental approach that has characterized Recreation Services Division's business model.

Recreation Commission Action: At the March 2, 2011 Recreation Commission meeting, the Recreation Commission, with a 6-0 vote, recommended to the City Council to amend the Master Fee Resolution to update existing fees for youth sports field rentals and Central Park picnic areas and to incorporate the Teen Center patio area into the current facility reservation system.

Summary: Staff recommends the City Council amend the Master Fee Schedule to update existing fees for Central Park picnic areas rentals and youth sports field rentals, effective July 1, 2011. Further, staff recommends the City Council incorporate the new Teen Center patio area into the current Master Fee Resolution under current user fees. These new fees would become effective immediately.

FISCAL IMPACT: N/A

ENVIRONMENTAL REVIEW: N/A

ENCLOSURES:

- Draft Resolution
- <u>Updated Master Fee Schedule for Recreation Services Fees</u> (changes and additions shown in bold with strike-out of old fees when appropriate)

RECOMMENDATION: Adopt a resolution amending the Master Fee Schedule to update existing fees for Central Park picnic area rentals and youth sports field rentals and incorporate the Teen Center patio area into the current Master Fee Resolution. Revised fees would become effective July 1, 2011, while the Teen Center patio fees would become effective immediately.

*2.6 BLACOW FRONTAGE MEDIAN REPLACEMENT PROJECT, 8650 (PWC)
Approval of Plans and Specifications and Award of Contract to the Lowest Responsible
Bidder for the Blacow Frontage Median Replacement Project, City Project No.
8650 (PWC)

Contact Persons:

Name:Craig CovertNorm HughesTitle:Associate Civil EngineerCity EngineerDept.:Public WorksPublic WorksPhone:510-494-4785510-474-4748

E-Mail: ccovert@fremont.gov nhughes@fremont.gov

Executive Summary: The purpose of this report is to recommend that City Council approve the plans and specifications for the Blacow Frontage Median Replacement Project, 8650 (PWC), accept the bid and award the contract for construction to the lowest responsive and responsible bidder, Joseph J. Albanese, Inc., in the amount of \$605,845.

BACKGROUND: The Blacow Frontage Median Replacement Project will replace frontage road medians from Dowling Avenue to Eggers Drive and repair the adjoining pavements that have been damaged by the growth and maturation of the Liquidambar and Pine trees planted in the narrow medians. The existing medians have only 3 feet of space between curbs, which is too small for the existing trees planted there. The proposed project will widen the medians by 2 feet by narrowing the adjacent through lane and frontage roads each by a foot. Providing the extra width will increase the chances that the existing trees can be saved and provide sufficient space for the new trees to be planted in the median. The 2007/08-2011/12 CIP budget funded \$1,060,000 for the Blacow Frontage Median Project from Dowling Avenue to Eggers Drive, 8650 (PWC). Subsequent to that, the 2009/10-2013/14 CIP budget funded an additional amount of \$130,000, to bring the total funded budget for this project to \$1,190,000.

DISCUSSION:

Existing Trees: During the design process, staff retained the services of a certified arborist through the firm HortScience, Inc., to evaluate the health of the 69 existing trees and prepare a report containing recommendations for the feasibility of preserving the trees. HortScience recommended the removal of seven trees due to failing health. These trees have recently been removed in advance of this project in compliance with the Migratory Bird Act. Five trees were found to have good suitability for preservation and will likely be preserved. The remaining 57 trees were found to have moderate suitability for preservation, meaning these trees will be further evaluated during construction. Once the existing curb is demolished and the roots are fully exposed by hand or vacuum excavation, the certified arborist will visit the job site to review the impacts to the trees. If there are instances where selective pruning of the tree roots to accommodate the new median curb and gutter will result in the potential decline in health of the tree or destabilizing the tree, the tree may be removed.

In accordance with the City tree preservation ordinance, this project will make every effort to preserve the remaining mature trees. Additionally, should any trees be recommended for removal, the project will observe the Migratory Bird Treaty Act of 1918 to protect birds and their young during the nesting

season by employing the City's on-call biologist to monitor the trees and provide City staff with appropriate recommendations.

Landscape and Irrigation: Any trees that are removed will be replaced with a new tree. In addition, sixty-eight new trees are being planted in the new frontage medians that will grow to eventually replace the existing trees as they continue to mature and possibly decline over time. Some of these proposed trees will replace the trees that were in declining health and were recently removed, and the rest are trees that will fill in other existing vacant areas. The shorter-statured Eastern Redbud and Jacaranda trees are proposed to fit under existing power lines. Cork Oak and London Plane trees are proposed for the larger canopy trees in the bulbout areas where space allows.

Irrigation lines are proposed to be placed at the back of curb of the newly widened frontage medians. All proposed trees will include water-efficient bubblers at each tree, and a 3 inch blanket of mulch in the medians will help to further conserve water.

Traffic Control: Due to the size, scope and number of streets included in this project, staff anticipates that residents and the traveling public will experience some inconvenience during construction. Individual traffic lanes on Blacow Road and the adjacent frontage roads will be closed to traffic in order to facilitate construction operations. To mitigate the impact of traffic delays on the public, the contractor must provide definitive traffic control plans. City staff will review all traffic control plans prior to construction and monitor traffic control work during construction to ensure all possible efforts are made to minimize the impact to the public. Advance construction message signs informing the public of the upcoming roadway construction will be posted before each work zone a minimum of seven days prior to the anticipated construction. The signs will advise the public of possible delays due to construction and list the anticipated dates of work on Blacow Road. In addition, each affected business or residence will receive a flyer describing the project and required parking restrictions at least two weeks before work begins in their area. Follow-up notices will again be distributed no later than two days prior to the start of construction. The current project status and schedule will be posted on the City of Fremont website at all times.

During construction, electronic changeable message boards as well as temporary construction signs will be positioned in advance of the construction work zone at major cross streets alerting the public of the roadwork ahead and potential delays.

Additional Concrete Construction: At the request of the Fire Department, the construction plans for this project included shortening the existing median in front of Fire Station No. 7 by approximately 28 feet to improve the southbound turning movements of vehicles exiting the site. The median area removed will be paved to match the existing pavement. By including this work as part of the Blacow Frontage Median Project which has similar work, the City received more competitive bids than bidding this work as a separate project. The cost for this work will be paid for by the Public Safety Improvement Project, 8741 (PWC).

Bid Results: Bids were received on March 8, 2011 for the Blacow Frontage Median Replacement Project, 8650 (PWC), as follows:

<u>RANK</u>	BIDDER	BASE BID
1	Joseph J. Albanese, Inc.	\$ 605,845.00
2	Suarez & Muñoz Construction, Inc.	\$ 632,377.70
3	Top Grade Construction, Inc.	\$ 634,182.00
4	Redgwick Construction Company	\$ 637,647.45
5	Blossom Valley Construction	\$ 639,464.97
6	Star Construction, Inc.*	\$ 645,832.65
7	O'Grady Paving, Inc.*	\$ 728,532.55
8	Golden Bay Construction, Inc.	\$ 734,181.83
9	JJR Construction, Inc.	\$769,938.00
Engineer's Estimate		\$ 850,000.00

^{*}bid mathematically corrected

As stated in the project Special Provisions, determination of the low monetary bidder was based on the Base Bid. The low monetary bidder, Joseph J. Albanese, Inc., is experienced in this type of project and is a responsible contractor.

PROJECT COSTS: The following is a summary of total estimated costs for construction:

Staff – Survey (160 hours)	\$ 22,000.00
Staff – Design/Design Administration (1,320 hours)	\$ 165,000.00
Contractor – Tree Removal	\$ 3,000.00
Arborist (HortScience)	\$ 20,000.00
Construction Cost (Base Bid)	\$ 605,845.00
(Includes \$80,000 in contingency)	
Staff - Construction Mgt. & Inspection (500 hours)	\$ 70,000.00
Project Contingency	\$ 85,000.00
TOTAL Estimated Construction Costs	\$ 970,845.00
FUNDING: Funding available for the project is as follows:	
Fund 142 State Gas Tax 2105, PWC 8650	\$ 1,190,000.00
Fund 501, PWC 8741	\$ 10,000.00
TOTAL Estimated Available Funding	\$ 1,200,000.00

Based on the contract amounts and project cost estimates, there are sufficient funds budgeted for this project.

ENVIRONMENTAL: The Blacow Road Frontage Median Replacement Project, 8650 (PWC), is eligible as a Categorical Exemption 15301 (Modification of Existing Street Facility), in conformance with the California Environmental Quality Act (CEQA).

ENCLOSURE: None

RECOMMENDATIONS:

- 1. Approve the plans and specifications for the Blacow Frontage Median Replacement Project, City Project No. 8650 (PWC).
- 2. Accept the bid and award the construction contract for the Blacow Frontage Median Replacement Project, City Project No. 8650 (PWC), to the lowest responsive and responsible bidder, Joseph J. Albanese, Inc., in the amount of \$605,845.00 and authorize the City Manager to execute the contract.

6.1	Report Out from Closed Session of Any Final Action			

7.1 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET UPDATE Presentation of Updated Project Prioritization for the FY 2011/12 – 2015/16 CIP, and a Status Update on the Current Capital Project List

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Executive Summary: The purpose of this item is to present an update on the proposed funding of projects being considered in the FY 2011/12 - FY 2015/16 Capital Improvement Program (CIP). This update consists of staff's proposed project funding allocations over the five-year CIP cycle, revised revenue projections, and an updated listing and description of all current funded capital projects. No specific action is required of the Council other than to provide comments to staff on the information presented. Consideration of the CIP for approval will occur in June, at the same time Council considers the annual City operating budget.

BACKGROUND: The CIP development process involves a comprehensive internal project planning effort, and multiple opportunities for the City Council to review the progress of CIP development and to provide direction to staff. At the January 11, 2011 City Council meeting, staff presented an overview of the CIP process, initial capital revenue projections, and recommendations of specific projects to proceed in the CIP process and receive further costing and scoping. Staff also provided a status report for all ongoing city capital projects (PWCs). At the conclusion of the presentation, City Council concurred with the projects to continue forward for further refinement and funding allocations. The Council also approved the closeout and return of capital funds for completed projects and projects recommended to be defunded. However, the Council deferred most of their comments and questions until the recommended project funding allocations are presented at tonight's meeting. The Council also deferred questions regarding projects on the current capital project list.

DISCUSSION/ANALYSIS:

Updated Project Allocations: Since the January Council meeting, staff has worked on refining project cost estimates and allocating funding to projects across the five years of the CIP plan. In most previous CIP budget cycles, this step involved weighing several projects against prioritization criteria and elevating certain projects above a funding line and dropping others. However, because initial revenue projections are down, staff limited its call for project proposals to basic ongoing capital maintenance and continuing priority projects. Therefore, staff efforts since the last Council update have not involved moving projects above or below the funding line, but rather allocating the available funds over the five-year CIP to the projects accepted by Council in January.

In the January presentation to Council, staff presented \$12.8 million in requested funding to 12 projects over the five-year CIP in the Unrestricted 501 Fund Group (General Fund), with only \$6.5 Million of funding available in the fund group. The funds available consist of one-time Local Improvement District surpluses and funds returned from project close-outs, and \$2.5 million in funds allocated to the

Midtown Plan. While double the amount of funds available, the \$12.8 million amount was not a need-based amount, but simply the sum of the prior annual average appropriations for the projects listed in the fund group. The Unrestricted 501 Fund Group funds much of the City's building infrastructure maintenance, sidewalk repair, and capital replacement for parks. Allocating \$6.5 million over five years to 12 projects that normally receive \$12.8 million proved challenging, and revealed that unless the City's financial circumstances improve over the next few years the City will not have adequate resources to perform basic maintenance of its facilities in years four and five of the proposed CIP Program.

In attempting to allocate the limited funds over the five year CIP Program, staff used the following strategy:

- 1) Do not program new funding to a project in FY 2011/12 or FY 2012/13 if an adequate balance exists from previous appropriations
- 2) Program available funding at the minimum levels required in FY 2012/13 and FY 2013/14 (if possible) when existing project balances are expected to have been spent
- 3) Program any remaining funds available into years four and five of the plan

The Unrestricted 501 Fund Group Summary Report in Enclosure A clearly illustrates the funding challenge. Outside of existing one-time fund sources and \$500,000 per year dedicated to the Midtown Plan, no new funds are anticipated to be available from General Fund contributions to maintenance projects over the five years of this capital plan. In many cases, for basic ongoing maintenance projects, funding is projected to run out after year three of the CIP, and after year four in other cases. Without basic maintenance repairs, the deferred maintenance costs will increase, and repairs will become more expensive in the future. The CIP cycle will repeat again in two years and hopefully the funding picture will improve and additional Unrestricted 501 revenue will be available to eliminate some of the projected shortfalls.

Adjusted Total Funds Available: The total funds available to fund projects has been marginally adjusted for some of the fund groups since the last City Council presentation in January. For example, there is a new revenue source for local Streets and Roads projects. In November 2010, Alameda County voters approved Measure F, a \$10 Vehicle Registration Fee (VRF) for registering a vehicle in the county. Measure F is expected to raise \$11 million annually countywide. Sixty percent of the revenue generated is to be used for maintenance of local streets and roads, 25% for congestion relief/transit, 10% for technology improvements, and 5% for bicycle and pedestrian projects. Managed by the Alameda County Transportation Commission (ACTC), the revenue will be distributed to cities based on a formula that combines population and vehicle registration. In February, the City was able to determine from ACTC that based on initial estimates, beginning in FY 2012/13, the city should receive up to \$900,000 a year in Local Streets and Roads funding and \$75,000 a year in Bicycle and Pedestrian funding.

Without this new revenue source for roads, staff would have recommended reducing annual funding of the street overlay program in the FY 2011/12 - 2015/16 CIP. With the additional funds, staff now recommends a modest increase in street overlay funding to approximately \$3.5 million per year, an increase from \$2,850,000 per year in the prior CIP.

The total funds available for the Traffic Impact Fee (TIF) project fund group also increased due to the receipt of development impact fees from a few large development projects in the past few months. The TIF beginning balance for FY 2011/12 increased by \$1.12 million, increasing the total TIF funds available over five years from \$11.05 Million to \$12.125 million. Because the amount of the increase is not enough to fund an additional major project, staff recommends carrying the unallocated balance forward into the next CIP cycle.

The recent receipt of development impact fees also affected the Parks Facilities project fund group and the Parks Acquisition fund group funding. An additional \$600,000 in park facilities fee revenue has been added to the total funds available in the Parks Facilities fund group. The increase of \$600,000 will be allocated to the Measure WW Projects Administration and Management project. The total funding available for Parks Acquisition has also increased by \$1.0 million due to the receipt of parks dedication-in lieu fees. This additional funding will be added to the Parks Acquisition project account.

Revenue projections for the other project fund groups are unchanged from the information presented to the Council in January.

Additional Projects For Councils Review: Since the CIP presentation at the January 11, 2011 Council meeting, staff has identified two additional projects for inclusion in the FY 2011/12 – 2015/16 CIP. Both of the projects have dedicated fund sources, and do not 'compete' with other projects for funding. The projects are listed in Enclosure A under the Committed/Restricted Fund Group. They are as follows:

- 1) Paseo Padre and Auto Mall Arterial Management (New) Program Amount: \$210,000 Fund Source: Transportation Fund for Clean Air (TFCA) Grant (Committed/Restricted Fund Group)
- 2) **Permitting & Land Use System (PWC 8746)** Program Amount: \$1,000,000 Fund Source: Development Cost Center Technology Reserve (Committed/Restricted Fund Group)

PWC Status Update: The City currently manages over 200 capital projects in various stages of development that have received appropriation of funds by the City Council. The vast majority of these projects are successfully managed by staff through project completion meeting initial budget appropriation amounts. Staff also pursues funds from outside sources whenever possible to either wholly fund or offset City project expenses. The complete list of capital projects is provided with status updates as Enclosure B.

Per Council's request, the projects have been sorted first into CIP Program Area Categories (Capital Maintenance, General Government, Parks & Recreation, Redevelopment, and Transportation Improvements), then alphabetically within those CIP categories. Staff will be available to answer questions regarding the status of these projects.

FISCAL IMPACT: There is no fiscal impact of the recommended action. The Council will not be requested to approve the CIP until June, 2011.

ENVIRONMENTAL REVIEW: N/A

ENCLOSURES:

- Enclosure A: CIP Project Recommendations with Five Year Funding Allocations
- Enclosure B: PWC Status Report

RECOMMENDATION: Provide comments to staff on the updated project prioritization for the FY 2011/12 - 2015/16 CIP.

7.2 DISSOLUTION OF ASSOCIATED COMMUNITY ACTION PROGRAMS (ACAP)
Update on the Dissolution of the Associated Community Action Programs (ACAP) Joint
Powers Agency and Authorization for City Manager to Execute a Reimbursement and
Joint Cooperation Agreement Related to the Dissolution

Contact Person:

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Executive Summary: The Associated Community Action Program (ACAP) is a Joint Powers Agency that for many years has served as a mechanism for the receipt and distribution of federal anti-poverty funds in Alameda County. The City of Fremont is a participant in ACAP along with Alameda County and most other cities in the county. Due to extreme financial difficulties that have emerged for ACAP

and most other cities in the county. Due to extreme financial difficulties that have emerged for ACAP over the past few months, its Governing Board recently took a series of actions to close down the agency's operations. The purpose of this report is to summarize recent events related to ACAP; to inform the Council of costs and potential liabilities for Fremont; and to describe next steps. The report also requests Council authorization for the City Manager or his designee to execute a Reimbursement and Joint Cooperation/Representation Agreement with all other ACAP members that memorializes a number of actions that are underway to resolve the situation.

BACKGROUND: ACAP was formed in 1974 by Alameda County, Fremont, and several other municipalities as a joint powers agency to administer federal anti-poverty funds. By 1984, all cities in the county except Oakland and Berkeley were participants in ACAP. One elected official from each member agency serves on the ACAP Governing Board. For Fremont, Vice-Mayor Chan was appointed the City's representative in January, 2011. Alameda County Social Service Agency serves as the fiscal agent for ACAP.

Because the amount of funding available under the federal Community Services Block Grant (CSBG) for member agencies is relatively small (a total of about \$500,000 annually in recent years), the joint powers agency proved for many years to be an efficient way to consolidate administrative costs while still providing funding for important services through sub-grants to local agencies. In Fremont, for example, ACAP provided funding to Safe Alternatives to Violent Environments (SAVE), a local domestic violence program.

Several years ago, ACAP began to expand its role beyond making sub-grants. The agency was successful in obtaining outside grants and contracts and began offering a myriad of youth, employment, and financial literacy programs. This expansion of scope included a contract with the City of Fremont for an Individual Development Account program at the Fremont Family Resource Center (funded with \$30,000 of the City's federal Community Development Block Grant allocation). By 2010-11, ACAP's budget had grown to about \$3.5 million annually.

While ACAP's budget was increasing, the agency began to experience what were described as "cash flow" difficulties. In February 2009, the Alameda County Board of Supervisors approved a revolving trust fund of \$250,000 for ACAP to assist with these difficulties. ACAP continued to make grants and provide services through 2010, but in February 2011 the magnitude of ACAP's financial problems became clear. Numerous employees and sub-contractors reported that they had not been paid money owed to them and the agency indicated it could no longer make payroll.

The Governing Board took the following actions beginning in February 2011 to address the dire financial situation:

- Placed the agency's Executive Director on administrative leave (and later terminated her employment with ACAP);
- Appointed a County Social Services Agency staff member as Interim Executive Director
- Approved a plan to dissolve ACAP within 90 days;
- Laid off agency staff;
- Secured commitments from each member agency (including Fremont) to make an initial \$25,000 payment to address immediate needs such as back pay owed employees, retaining legal counsel, and contracting with the consulting firm Management Partners to serve as Administrator of the Agency and to oversee its dissolution.

At the same time, a financial audit was initiated by Alameda County to assess the full scope of outstanding liabilities. Results of the audit are not yet available.

DISCUSSION/ANALYSIS: ACAP's financial difficulties and dissolution can impact Fremont in several ways as described below.

<u>Costs to Resolve Outstanding Liabilities</u>. Pursuant to the Joint Powers Agreement that lays out roles and responsibilities of participating agencies, the City of Fremont is liable for its share (1/13) of ACAP's outstanding liabilities. For example, if on completion of the audit, it is determined that ACAP has \$650,000 in remaining liabilities; the City would be liable for \$50,000. At this point, no information is available to estimate the magnitude of ACAP's outstanding obligations.

Loss of Individual Development Account (IDA) Program at Fremont Family Resource Center.

For each of the past three years, the City has used \$30,000 of its federal Community Development Block Grant to contract with ACAP to offer an Individual Development Account (IDA) program at the Fremont Family Resource Center. Through this program, 50 low-income participants received or are receiving financial education and counseling, as well as matching funds for savings aimed at home ownership or starting a small business. With the dissolution of ACAP, it is unclear whether this program can continue to be offered at the Fremont Family Resource Center in the short term. In addition, participating clients who are still in the process of meeting their savings goals have been unable to access their IDA accounts in the absence of ACAP staff. As part of the dissolution proceedings, the City will need to work with the ACAP Administrator to ensure that the IDA account holders are not adversely affected.

<u>Future Community Service Block Grant Funding.</u> Once ACAP is dissolved, there will be no local agency that is formally designated to receive and disburse CSBG funds to which ACAP member agencies are entitled. The City may wish to pursue being the lead agency for funds that would come to Fremont or the entire Tri-City area, as there are many possible linkages between City Human Service Department programs and community programs that could be funded with CSBG dollars. Staff will monitor the CSBG funding situation and will return to Council with options for administering the funds as this information becomes available.

Reimbursement and Joint Cooperation/Representation Agreement for Common Interest/Pooled Information

Because of the many issues that have arisen regarding the dissolution of ACAP, the various jurisdictions have agreed that it would be desirable to enter an Agreement that lays out ground rules for agency contributions, that clarifies the decision to hire a consultant and legal counsel to wind down ACAP operations, and that lays out decisionmaking authority for paying claims and expenses. Staff has reviewed the Agreement and recommends that Council authorize its execution by the City Manager or his designee.

FISCAL IMPACT: Fiscal impact of ACAP's financial difficulties will not be known until completion of the audit.

ENCLOSURE: Reimbursement and Joint Cooperation/Representation Agreement

RECOMMENDATION: Authorize the City Manager or his designee to execute the Reimbursement and Joint Cooperation/Representation Agreement.

8.1 Council Referrals

8.1.1 MAYOR WASSERMAN REFERRAL: Appointment of Sandeep Chandana to the Library Advisory Commission

Appointment:

Advisory BodyAppointeeTerm ExpiresLibrary Advisory CommissionSandeep ChandanaDecember 31, 2014

ENCLOSURES: Commission Applications

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAGAssociation of Bay Area Governments	FUSD Fremont Unified School District
ACCMA Alameda County Congestion	GIS Geographic Information System
Management Agency	GPA Geographic information System GPA General Plan Amendment
ACE Altamont Commuter Express	HARB Historical Architectural Review Board
	HBA Home Builders Association
ACFCD Alameda County Flood Control District	HRC Human Relations Commission
ACTAAlameda County Transportation	
Authority	ICMA International City/County Management
ACTIA Alameda County Transportation	Association
Improvement Authority	JPA Joint Powers Authority
ACWDAlameda County Water District	LLMD Lighting and Landscaping Maintenance
BAAQMD Bay Area Air Quality Management	District
District	LOCCLeague of California Cities
BART Bay Area Rapid Transit District	LOS Level of Service
BCDCBay Conservation & Development	MOU Memorandum of Understanding
Commission	MTC Metropolitan Transportation Commission
BMPs Best Management Practices	NEPA National Environmental Policy Act
BMRBelow Market Rate	NLC National League of Cities
CALPERS California Public Employees' Retirement	NPDES National Pollutant Discharge Elimination
System	System
CBDCentral Business District	NPO Neighborhood Preservation Ordinance
CDDCommunity Development Department	PCPlanning Commission
CC & R's Covenants, Conditions & Restrictions	PD
CDBGCommunity Development Block Grant	PUC Public Utilities Commission
CEQA California Environmental Quality Act	PVAW Private Vehicle Accessway
CERTCommunity Emergency Response Team	PWCPublic Works Contract
CIPCapital Improvement Program	RDA Redevelopment Agency
CMACongestion Management Agency	RFP Request for Proposals
CNGCompressed Natural Gas	RFQRequest for Qualifications
COFCity of Fremont	RHNA Regional Housing Needs Allocation
COPPSOommunity Oriented Policing and Public	ROP Regional Occupational Program
Safety	RRIDRO Residential Rent Increase Dispute
CSACCalifornia State Association of Counties	Resolution Ordinance
CTCCalifornia Transportation Commission	RWQCB Regional Water Quality Control Board
dBDecibel	SACNET Southern Alameda County Narcotics
DEIRDraft Environmental Impact Report	Enforcement Task Force
DODevelopment Organization	SPAA Site Plan and Architectural Approval
DU/ACDwelling Units per Acre	STIP State Transportation Improvement
EBRPDEast Bay Regional Park District	Program
EDAC Economic Development Advisory	TCRDF Tri-Cities Recycling and Disposal Facility
Commission (City)	T&O Transportation and Operations
EIREnvironmental Impact Report (CEQA)	Department
EIS Environmental Impact Statement (NEPA)	TOD Transit Oriented Development
ERAFEducation Revenue Augmentation Fund	TS/MRF Transfer Station/Materials Recovery
EVAW Emergency Vehicle Accessway	Facility
FARFloor Area Ratio	UBC Uniform Building Code
FEMAFederal Emergency Management Agency	USD Union Sanitary District
FFDFremont Fire Department	VTA Santa Clara Valley Transportation
FMCFremont Municipal Code	Authority
FPDFremont Police Department	WMA Waste Management Authority
FRCFamily Resource Center	ZTAZoning Text Amendment

UPCOMING MEETING AND CHANNEL 27 BROADCAST SCHEDULE

Date	Time	Meeting Type	Location	Cable Channel 27
April 12, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 19, 2011	5:30 p.m.	Work Session	Council Chambers	Live
April 26, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 2, 2011	4-6 p.m.	Joint Council/FUSD Meeting	Council Chambers	Live
May 3, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 10, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 17, 2011	TBD	Work Session	Council Chambers	Live
May 24, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 31, 2011 (5 th Tuesday)		No Council Meeting		
June 7, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 14, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 21, 2011	TBD	Work Session	Council Chambers	Live
June 28, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 5, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 12, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 19, 2011	TBD	Work Session	Council Chambers	Live
July 26, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live